to encourage industry, cut the deficit, and change tax laws to increase investment.

"We're being displaced all over the world and we're being displaced in our own country by foreign powers," he said.

At Data Resources, which he founded with Donald B. Marron, an investment banker, Dr. Eckstein set up an economic "data bank" containing thousands of statistical entries, many from government reports. Clients with computers could use this centralized information for their own analyses and economic forecasts. That service was a significant aspect in DRI's success.

In addition, Data Resources used the information bank for its own forecasts, including detailed predictions for many industries such as steel and petroleum. These forecasts have gained a wide following.

In short, Dr. Eckstein and his associates created an econometric model of the U.S. economy and used it both to analyze and forecast economic activity. The model—a set of mathematical equations describing past relationships, such as changes in wages and prices, or the level of interest rates in connection with housing construction—became steadily more detailed over the years and was the subject of "Core Inflation," the most recent of Dr. Eckstein's books.

Dr. Eckstein continued teaching at Harvard until his death. A warm and approachable man, he said he felt this aspect of his life was at least as important as the business of advising presidents.

"Your long-run impact on the world is, in the end, really at least as great, if not greater, through your teaching than through your writing or research," he said. "You're educating a population not through inculcating them with your ideas, but in teaching them the analytic principles of economics."

Dr. Eckstein, who lived in Lexington, was born in Ulm, Germany, on Aug. 1, 1927. His father was Hugo Eckstein, a businessman, and his mother the former Hedwig Pressburger. The family left Germany in 1938 to escape the anti-Semitic policies of Hitler and arrived in this country a year later. Young Eckstein finished high school in New York City, became a citizen in 1945, and served in the Army Signal Corps as a private. He then went to Princeton University, where he graduated summa cum laude.

By then his interest in economics already was well established, for as a youth he had been concerned about the difficulties immigrants had in obtaining employment in this country. He went on to Harvard, where he earned a master's degree in 1952 and a doctorate in 1955. His dissertation, "Water Resource Development: The Economics of Project Evaluation," was his first large study of the federal government and the economy.

Dr. Eckstein was appointed an instructor at Harvard in 1955, an assistant professor in 1957, an associate professor in 1960, and a full professor in 1963. At the time of his death, he was the Paul M. Warburg professor of economics at the university.

From 1959 to 1960, he was the technical director of the Joint Economic Committee of Congress. A Democrat in politics, he was named to the Council of Economic Advisers by President Lyndon B. Johnson in 1964, and served until 1966. He continued to advise White House occupants and others in government for the rest of his life.

Dr. Eckstein's survivors include his wife, Harriett, of Lexington; three children, Warren Matthew, Felicia Ann and June Beth, and his mother.●

FREEZE ON DEFENSE SPENDING

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 30, 1984

● Mrs. SCHROEDER. Mr. Speaker, today I and my distinguished colleague from Massachusetts, ED MARKEY, are introducing legislation that will freeze the fiscal year 1985 defense spending levels at 1984 levels. This freeze will affect defense spending across the board. It will freeze spending levels at the Department of Defense; the military applications of nuclear energy functions at the Department of Energy; the civil defense functions of the Federal Emergency Management Agency; and the Selective Service System.

This is a real freeze: that is, dollar amounts are frozen, there is no adjustment for inflation. If passed, this bill will reduce President Reagan's defense request by $48 billion and reduce the fiscal year 1985 deficit by $34.5 billion.

This bill will force the military to increase its concentration on readiness and training and reduce its emphasis on building new, expensive, and complex machines. It will also slow down the proliferation in the number and type of nuclear weapons.

If you think $1 billion every work day is enough to keep the Pentagon going, this bill is for you.●

MARINE PULLOUT FAVORED IN POLL

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 30, 1984

● Mr. GAYDOS. Mr. Speaker, ever since a U.S. Marine peacekeeping force was sent to Lebanon in September 1982, Americans have been concerned over what might happen in that section of the world.

Their fears increased with the escalation of hostilities in the Mideast and when the situation developed to the point where more than 200 Marines were killed, concern flared into controversy over the necessity of keeping our troops there.

In an attempt to learn the opinion of residents in the 20th Congressional District of Pennsylvania, I initiated one of my "home phone poll" surveys on the question of whether the Marines should be withdrawn or ordered to remain on duty in Lebanon. The survey was prematurely terminated by the President's decision to reposition the troops in ships offshore.

Nevertheless, I thought the President would be interested in the results of the survey up to that time and have so informed him by letter. I am inserting the findings into the RECORD for the attention of my colleagues as well.

A portion of our home phone poll participants—1,081— responded to the question on the folowing manner:

Troops should be withdrawn: 847 or 78 percent.

Troops should remain: 204 or 19 percent.

No comment: 30 or 3 percent.

Mr. Speaker, the home phone poll has proven to be an effective means of learning public opinion on topical issues since I initiated it a decade ago. The people of the 20th District are not reluctant to express their views and I feel they should be heard.●

FOREIGN INTELLIGENCE SURVEILLANCE COURT—HOW IS IT WORKING?

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 30, 1984

● Mr. KASTENMEIER. Mr. Speaker, in 1978, in order to address some of the abuses of constitutional rights exposed by the Church committee, Congress passed the Foreign Intelligence Surveillance Act (FISA). This legislation, in part the product of work by the House Judiciary and Intelligence Committees, authorized a specialized court to review applications for electronic surveillance of foreign intelligence targets in this country. This court, the Foreign Intelligence Surveillance Court, is unique: it operates in secret, with ex parte proceedings. Congress therefore provided congressional oversight by both the House and Senate Intelligence Committees.

In the past 4 years, these committees have done commendable work. However, because much of the work of the FISA Court is classified, there has been very little opportunity for the public to openly review the workings of the act. Last June, the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which I chair, held the first public hearings on FISA and the FISA Court. It is my hope that through these hearings, both Members and the general public will obtain an increased sense of how foreign intelligence surveillance is regulated by the act.

I would also like to commend an excellent article on the workings of the Foreign Intelligence Surveillance Court, published in the April 1984 issue of the Progressive magazine, and insert it in the RECORD:

A COURT THAT NEVER SAYS NO

(By Keenen Peck)

Twice a month, and whenever an emergency arises, a judge holds court in the conference room on the top floor of the Justice Department building in Washington, D.C. The room, regularly "swept" to detect hidden microphones, is secured by a cipher-locked door. Seven district court judges preside on a rotating basis. Though handpicked by Chief Justice Warren Burger, all are subjected to FBI background checks.

45

the Jews of the Soviet Union. Their professional degrees are being stripped from them. They are being denied exit visas to live with their families in other countries. They are being forced into internal exile, often without access to medical treatment. They are being imprisoned on trumped-up charges with no access to legal counsel. Libelous literature is being published against them with the official sanction of the Soviet Government. In short, Mr. Speaker, there is in motion a determined campaign to wipe out the religious and cultural identity of the Soviet Jews.

Last November, I was visited in my Washington office by two constituents and friends of mine, Ken and Nancy Levin of Garden Grove. The Levins told of being harassed by Soviet officials when they attempted to visit the family of refusenik Lev Elbert on a recent visit to the Soviet Union. Although shaken by their treatment at the hands of the Soviets, the Levins were more determined than ever to persevere in their efforts on behalf of Soviet Jews. They were able to make personal contact with Lev Elbert's family to show the Elberts that they and their fellow Jews have not been forgotten, that we in America are more determined than ever, more committed than ever to the fight against the ugly persecution of the Soviet Jewish people.

While in the Soviet Union the Levins learned of another refusenik, a young man named Yakov Mesh who with his wife Marina has been applying for emigration visas unsuccessfully since 1977. When he first applied for the visas, Yakov Mesh was served with a reserve draft notice for the Soviet Army. Since he had already served a term in the army, it was feared that this was an attempt to delay action on the visa applications. Yakov Mesh has since been relieved of reserve duty, undoubtedly due to pressure on the Soviet authorities, but he and his wife have still not received favorable attention to the applications for emigration visas. They have joined the uncounted ranks of Soviet Jewish refuseniks who wait in hope and uncertainty for permission to join their relatives and loved ones in other countries.

There are no words, Mr. Speaker, to adequately describe the suffering these people have endured and the moral courage they have displayed through the years. The benefits of living in a free society that we tend to take for granted are the treasured goals that keep these people sustained in their struggle against a system that does not recognize or respect basic human rights.

But with every new instance of repression against these people, with every new case that comes to light there will be an answering renewal of purpose, a strengthening of resolve on the part of the refuseniks and those of us who seek to assist them in their truggle to live in freedom. The Soviet Jews and their supporters in this country will become, like Ken and Nancy Levin, more determined than ever, more committed than ever to the fight against the ugly persecution of the Soviet Jewish people.●

A TRIBUTE TO SOPHIE RAPAICH

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 30, 1984

● Mr. PEPPER. Mr. Speaker, it is my pleasure to honor here today Sophia Bozanich Rapaich who is an outstanding example of courage, determination, and all the fine qualities of that large group of individuals known as average Americans who are in fact the group that makes America great. She emigrated from her homeland, Serbia, which is now a part of Yugoslavia, to America in 1912 to be reunited with her husband Rudolph in the small village of Niagara, Wis. Sophie worked to overcome the hardships that most immigrants endure, not knowing the language, customs, or laws of America, but she loved our country and learned our system of government. Her family life was exemplary and loving. She raised eight children, five of whom are still alive, in the American manner. Sophie enjoyed an enduring marriage of 63 years to the late Rudolph Rapaich. She still resides in Niagara, where she has been a resident for the past 72 years. She is very active and enjoys reasonably good health. Because of her activity and her remarkable attitude she remains an inspiration to all who know her.

On April 20, 1984, Sophie will celebrate a remarkable milestone in her life—her 96th birthday. I want to join with her devoted son, Eli Rapaich, and the rest of her family and friends in extending warmest congratulations and very best wishes on this happy and blessed occasion. May her future be filled with good health and much happiness.●

OTTO ECKSTEIN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 30, 1984

● Mr. HAMILTON. Mr. Speaker, last week the Joint Economic Committee lost one of its closest friends and most respected advisers. Otto Eckstein was a professor of economics at Harvard University, and founder and chairman of Data Resources, Inc., the largest economic advisory service in the country.

Dr. Eckstein had a long association with the Joint Economic Committee. He served as the committee's technical director in 1959-60, and oversaw the many hearings, reports, and study papers which comprised the "Study of Employment, Growth, and Price Levels." This work was influential in President Kennedy's economic program. After his work with the committee, Dr. Eckstein returned to Harvard as an asssociate professor of economics. In 1964 he was appointed by President Johnson as a member of the Council of Economic Advisers, where he served until 1966.

Dr. Eckstein founded D.R.I. in 1968, while continuing as professor of economics at Harvard. He rapidly built D.R.I. into the leader in the field. At the same time he continued his teaching and scholarly research.

Dr. Eckstein frequently testified before the Joint Economic Committee on economic policy matters, the outlook for the economy, and other issues. He was an articulate and well-informed witness, who provided solid statistical evidence for his views. In 1980 the committee published "Tax Policy and Core Inflation," a study prepared by Dr. Eckstein. This work provided a new framework for the analysis of inflation, and it was later developed in more depth in his book on "Core Inflation."

We will miss Dr. Eckstein. I am entering for the record the obituary published in the March 23 Washington Post.

The article follows:

[From the Washington Post, Mar. 23, 1984]

OTTO ECKSTEIN, ECONOMIST, ADVISER TO PRESIDENTS, DIES

(By J. Y. Smith)

Otto Eckstein, 56, a member of the Council of Economic Advisers in the Johnson administration, a pioneer in the use of computer models to make economic forecasts, and a professor of economics at Harvard University, died of cancer yesterday at Massachusetts General Hospital in Boston.

Apart from his work in the government and as a teacher and theorist, Dr. Eckstein was a founder in 1968 of Date Resources Inc. of Lexington, Mass., the country's largest economic advisory service. In 1979, the company was purchased by McGraw-Hill Inc. for $103 million. Dr. Eckstein and members of his family were said to have received $40 million of this sum. He remained president of DRI until 1981.

Dr. Eckstein believed that federal tax and spending policies could be used to influence the course of the economy, and he emphasized this conviction in his work. He had a strong interest in inflation, its measurement, its causes and possible techniques of controlling it. He coined the term "core inflation" to describe and analyze the basic underlying movement of prices by abstracting from temporary changes, such as increase in fruit and vegetable prices due to a sudden freeze.

Earlier this year, he presented a report to the Reagan administration and Congress that called for a reduction in the federal deficit, a restructuring of the nation's basic manufacturing industries, and steps to make American goods more competitive in world markets. A key point in remaining competitive, he said, was establishing and maintaining a technological edge over the products of other countries.

In a study prepared for nine major corporations, he said the government had failed

Eleven lawyers currently hold Government clearance to appear before the court. They have never lost a case. No one argues against them. One judge once overruled the lawyers, but merely because they had asked him to do so. That unique decision became the only published opinion ever to emanate from the conference room.

This is the Foreign Intelligence Surveillance Court. For the past five years, since May 1979, it has authorized "national security" wiretapping and bugging. Federal spy agencies must obtain approval from the special judges to conduct electronic surveillance within the United States. Applications to the court bear the signatures of the Attorney General and, depending on which agency makes the request, the Secretary of Defense, the Director of Central Intelligence, or the FBI Director.

At a time when more and more Americans are protesting U.S. nuclear and foreign policies, the tribunal poses a potential threat to dissidents at home. It authorizes wiretaps on persons believed to be "agents of foreign powers," and President Reagan has said more than once that he regards dissenters as tools of alien forces.

Every application brought before the extraordinary court has been approved—1,422 as of January 1983. In 1982, the last year for which figures are available, the Reagan Administration sought and received 473 surveillance orders, almost 50 percent more than the Carter Administration obtained in 1980, the only full year it was required to seek court approval.

Why has the secretive court never rejected an application?

"The garbage drops out way before that," contends Mary Lawton, the Justice Department's counsel for intelligence policy, whose staff prepares the applications and represents the snoops. "The levels of review in the FBI and National Security Agency and here are so intense that the chances of a poor one getting in there are zilch."

"I am not necessarily persuaded," says Representative Robert Kastenmeier, the Wisconsin Democrat who chairs the House Judiciary Committee's subcommittee on courts, civil liberties, and the administration of justice. "It's an open question whether we're getting good, solid review of these applications."

Last summer, Kastenmeier held the first public hearings on the court. Witnesses included Lawton, civil liberties advocates, and the former chief judge of the intelligence court, George Hart Jr., who served from 1979 to 1983. Hart delivered his testimony in vague terms, but he inadvertently provided some insight into the court's perception of its duty:

"The judges of the court sit in Washington, D.C., to consider applications for orders authorizing the interception of foreign intelligence information by electronic surveillance, or other mechanical means," he told the subcommittee. "We seek to ensure that there is always a judge available to issue such an order."

The key words are "available to issue such an order"—which is quite different from ensuring the availability of a judge to consider an application. Hart, perhaps, equates impartial review with automatic approval.

Presumably, the court has the power to reject applications. Under the Foreign Intelligence Surveillance Act (FISA), which mandated the establishment of the court, the judges are charged with weighing the constitutional rights of Americans against the ostensible needs of the spy agencies.

Unfortunately, the court seems to attach greater import to the latter—at least from the scanty data that have seeped through the shroud of secrecy surrounding the body. In some instances, the judges have erred in favor of the intelligence community. But even where the letter of the law is upheld, constitutional rights stand in jeopardy. FISA's safeguards are paper thin, and its loopholes are gaping.

In a conference room on Constitution Avenue, of all places, the National Security State has been institutionalized.

FISA was enacted in 1978 after Congress and the media exposed a wide pattern of abuses by the Executive Branch. Senator Frank Church, who led the most intensive investigation into Watergate-era transgressions by the intelligence agencies, summed up the findings of his Select Intelligence Committee this way:

"Through the uncontrolled or illegal use of intrusive techniques—ranging from simple theft to sophisticated electronic surveillance—the Government has collected, and then used improperly, huge amounts of information about the private lives, political beliefs, and associations of numerous Americans."

FISA was supposed to put an end to such offenses.

The law was designed to "curb the practice by which the Executive Branch may conduct warrantless electronic surveillance on its own unilaterial determination that national security justifies it," according to a 1978 Senate report on FISA. "Legitimate use" of wiretapping and bugging to obtain foreign intelligence information would thereafter be authorized by the Attorney General and a disinterested special court which, in turn, would be watched by Congress itself.

Six years earlier, the Supreme Court had held that warrantless domestic surveillance violated Fourth Amendment protections against unreasonable searches and seizures. But the high court explicitly reserved judgment "on the scope of the President's surveillance power with respect to the activities of foreign powers, within or without this country."

Congress stepped in to fill the breach. FISA allows court-approved electronic surveillance if there is "probable cause" to believe that the target is a "foreign power" or, more vaguely, an "agent of a foreign power."

A "U.S. person"—that is, a citizen, a permanent resident, or an organization that includes many American members—may not be considered an "agent of a foreign power" solely on the basis of activities protected by the First Amendment, the law states. However, the court can authorize snooping on Americans if the Attorney General certifies they are engaged in clandestine activities on behalf of a foreign power that "may involve" a violation of criminal law.

According to a recent memo prepared by the Justice Department at the request of Representative Kastenmeier, "Even if the target is seeking unclassified or public information, this may be sufficient to obtain authorization of the surveillance if he is doing so at the direction of a foreign power."

The memo also notes, "During the past four years, the percentage of targets who are United States persons has increased, somewhat, due primarily to enhanced investigation of international terrorism."

When the Government overhears an American in the course of a foreign-related surveillance, it can retain the information if "necessary" to national defense or security—the same rationalization Richard Nixon invoked to spy on U.S. dissidents.

The intelligence court's standard for approving surveillance is weaker than the one used in criminal investigations. To obtain a warrant in a criminal case, the Government must show "probable cause" that an offense has been or will be committed; in an FISA case, the Justice Department must merely demonstrate that the target has foreign connections and that the premises to be bugged are used by that target.

Furthermore, the language of the Act limits the ability of the court to challenge Government claims. As Mary Lawton told the House subcommittee, "An FISA judge may look behind the certification only if the target is a U.S. person and then only on a 'clearly erroneous' standard." Put another way, if the papers are in order, the court has no choice but to approve the spy agencies' requests.

"The benefits of the structure are illusory," says John Mage, a New York lawyer who represents a Bulgarian diplomat charged with espionage on the basis of an FISA surveillance. While listening in on the Bulgarian, the Government overheard discussions among the diplomat, Mage, and another lawyer who, like Mage, is a "U.S. person." The Justice Department says it protected the rights of all parties by erecting a "Chinese wall" between prosecutors and FBI agents who monitored the microphones.

"Secrecy corrupts, and absolute secrecy corrupts absolutely," maintains Barry Scheck, professor at New York's Cardozo Law School and attorney in an FISA case involving supporters of the Irish Republican Army. "The statute permits political surveillance, and without a stretch, without a lot of malevolence, it permits abuse." Scheck believes the Government can "find a way into domestic political organizations" by targeting their foreign members.

"Until someone knocks on your door and says, 'Aha, you're a foreign agent,' you don't think it could apply to you," adds attorney David L. Lewis, who has also represented backers of the Irish Republican Army who were bugged under FISA. (In one case, the defendants were acquitted of conspiracy and various weapons charges; in the other, Scheck and Lewis are appealing convictions of gunrunning.) "Congress authorized the President to use the judiciary as a rubber stamp," Lewis says.

The tribunal has not confined itself to issuing surveillance warrants; between 1979 and 1981, the judges approved a series of physical break-ins—black-bag jobs—although FISA plainly grants no such authority to the court.

After the Reagan Administration took office, the Justice Department submitted an application "inviting" the court to renounce any power to sanction break-ins. The Executive Branch wanted to stake out exclusive authority over intelligence-related physical searches, and Judge Hart complied in the court's only published opinion.

Hart correctly delineated the court's jurisdiction in his 1981 ruling. But the fact that the judges had previously violated FISA provisions gives great cause for concern. How many other requests falling outside the parameters of the Act have been similarly approved?

Moreover, Hart's decision demonstrates that FISA does not stand in the way of Executive Branch abuses. Who can authorize black-bag jobs if not the intelligence court? The Attorney General and the President, answers Lawton.

A more disturbing loophole in FISA is that most people spied on with the blessing of the court never find out. Targets of FISA snooping are not notified—unless they are prosecuted. By contrast, targets of criminal surveillance must eventually be informed, even if the G-men hidden in the shadows heard not an inkling of villainy.

The American people have no sure way of knowing whether the FISA court is, in fact, endorsing unreasonable searches and seizures, allowing the indiscriminate dispatch of the "invisible policeman in the home," as Supreme Court Justice William O. Douglas termed electronic surveillance.

Even in those rare criminal cases where a tap or bug surfaces, the accused usually don't find out what prompted the eavesdropping in the first place. Under FISA, the Attorney General may ask the trial judge to review the surveillance application and the order in secret to protect national security.

Every judge who has been asked to conduct a secret review has examined the documents *in camara* and *Ex parte* to determine the legality of the surveillance. Lawyers have argued to no avail that they need to see such information to prepare an adequate defense.

"While the alert eye of an advocate might be helpful in discerning defects in the [application] certificates, I see no reason to believe that an adversary, proceeding is necessary for accuracy," opined the district court judge in the Irish Republican Army case now being appealed.

"We appreciate the difficulties of appellants' counsel in this case," the U.S. Court of Appeals in Washington, D.C., conceded to attorneys for two men incidentally overheard during an FISA surveillance. "They must argue that the determination of legality is so complex that an adversary hearing with full access to relevant materials is necessary. But without access to the relevant materials their claim of complexity can be given no concreteness. It is pure assertion."

Joseph Heller could not devise a sharper *Catch-22*, and Franz Kafka could not have conjured up a craftier prevarication.

To be sure, FISA provides for Congressional oversight as a check and balance against the intelligence tribunal. The Justice Department is required to file semiannual reports on the court with the House and Senate Intelligence Committees. The committees, however, have neither the time nor resources to review the circumstances behind hundreds of surveillance orders. A staff assistant to the House committee says its members have examined a "handful" of applications; members of the Senate committee have publicly stated that their supervision is not ideal.

And because both intelligence committees operate largely in secret, the public can only speculate about what they learn. FISA requires minimal annual committee reports to Congress, but that provision expires this year. Kastenmeier has asked the House Intelligence Committee to continue reporting, and he predicts it will agree.

"Their oversight is off the record," says Kastenmeier. "Ours [the civil liberties subcommittee's] is on the record. We, as well as the intelligence committee in its own fashion, must review this court and its proceedings." Yet the Justice Department offered little information during Kastenmeier's hearings.

"We still do not know whether this court is working perfectly or whether it isn't working at all," Kastenmeier says. "One problem might be that we don't have a good mix of judges," he adds, noting that Warren Burger appointed "individuals not likely to rock the boat—senior judges, conservative judges." Kastenmeier acknowledges there are "open spots" in terms of what FISA regulates.

The biggest open spots relate to the National Security Agency. The NSA does not need court approval to monitor messages that leave or enter the United States. Nor must it have permission to monitor messages transmitted on lines used exclusively by foreign powers within the United States.

Author James Bamford highlighted another loophole in his recent book, The Puzzle Palace. According to Bamford, the NSA "has skillfully excluded from the coverage of the FISA statute as well as the surveillance court all interceptions received from the British GCHQ [Government Communications Headquarters] or any other non-NSA source. Thus it is possible for GCHQ to monitor the necessary domestic or foreign circuits of interest and pass them on to the NSA. . . ." Bamford points out the British did just this when the NSA snooped on American dissidents in the past.

Protection of our constitutional rights is an all-or-nothing proposition; once an erosive precedent is set, the entire foundation begins to slip.

That is usually the position of the nation's leading civil liberties lobby, but with respect to FISA, the American Civil Liberties Union placed itself in a curious position. After opposing FISA-type legislation for some four years, the ACLU stepped aside in 1978 and implicitly endorsed the final "compromise" bill, though it expressed dismay over the NSA exemptions and the absence of a procedure to notify all surveillance targets.

FISA was "the best we could get," argues Morton Halperin, director of the Center for National Security Studies and one of the ACLU lobbyists at the time. "FISA is working in the sense that it has defined the boundaries of national security wiretaps. In the absence of FISA, the Government was proclaiming the right to tap for whatever reason."

Halperin and ACLU attorney Mark Lynch urged Kastenmeier's subcommittee to compensate for the law's loopholes and ambiguities by ensuring strict Congressional oversight.

In light of today's admittedly weak oversight, however, are the rights of Americans being upheld by FISA? Is privacy better protected in 1984 than it was in 1978?

"A lot more could be done in the area, but it would be a mistake going back," warns Bruce Lehman, a Washington lawyer and former Congressional aide who helped draft FISA. "The thing that gave rise to the court was the assertion by the Justice Department that there was a residual power in the hands of the President and his appointees to engage in searches and seizures without regard to the Fourth Amendment." Lehman feels "safer and more comfortable" knowing that FISA exists.

"I feel considerably less secure," counters lawyer John Mage. Before FISA, he notes, the judiciary had reached no consensus on warrantless foreign-related snooping. But the second most influential court—the District of Columbia Court of Appeals—had imposed standards on the Executive Branch more stringent than those of FISA. "I see no advantage in Congressional approval of the legality" of national security wiretaps, Mage says.

The advisability of FISA could be debated ad nauseam. But some points are indisputable: First, no matter how hard Congress scrutinizes the intelligence court, the judges will continue affixing an imprimatur to the most reprehensible invasion of privacy—electronic surveillance, which the ACLU itself has called "the most intrusive and inherently unreasonable form of search and seizure."

Second, the current Administration displays the same kind of paranoia and loathing of dissent that marked the Nixon era. When the Nixonites tapped the phones of antiwar activists and suspected leakers (including Morton Halperin), they did so in the name of defense against foreign intrigue. Similarly, the Reagan Administration sees a KGB agent behind every nuclear freeze advocate and a Cuban inside every critic of its Central America policies. Reagan has freed the FBI to spy on domestic organizations, and he has heightened Government secrecy.

"You can't let your people know without letting the wrong people know," Reagan said last October in explanation of his tight lip about CIA activities directed against Nicaragua.

The subversion of constitutional rights often takes on a benevolent face. The attacks come not from evil people but from well-meaning bureaucrats, aided in this instance by well-meaning civil libertarians.

The basic freedoms of Americans will be in jeopardy as long as the citizenry fails to challenge the fundamental assumption of the National Security State—that any means can be used against the enemy presumed to lurk within our midst. The Foreign Intelligence Surveillance Court legitimates that assumption and assigns it a permanent place in the American landscape, even if that place is only a conference room in Washington, D.C.●

THE RIFT IN UNITED STATES-SOVIET RELATIONS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 30, 1984

● Mr. OTTINGER. Mr. Speaker, during the Reagan administration our relations with the Soviets have degenerated almost to cold war status. Yet the President continues with his misguided and ill-fated foreign policy that exacerbates an already deep rift.

Mr. Reagan has had ample opportunity for meaningful discussion with the Soviets on such issues as the deployment of U.S. missiles in Europe, turmoil in Latin America, and conflict in the Middle East. Yet the administration has consistently taken a hard line against the Soviets, maintaining the fallacy that missiles in Europe, marines in Lebanon, and weapons in Nicaragua would cow the Soviet Union into peaceful negotiations.

Instead, the Soviets left the negotiating table in Europe, as they warned they would do, and have sustained an aloof if not disinterested attitude toward Reagan's election year attempts to mend the wounds.

Last week Reagan's disastrous policy in Central America led to near catastrophe when mines placed by U.S. backed contras in Nicaragua damaged a Soviet tanker, injuring five crewmen. As Mr. Tom Wicker points out in his article from last week's New York Times, the administration's behavior does nothing to improve our reputation with the Soviet Union and pushes others to accept Soviet overtures against the gunboat diplomacy Mr. Reagan favors.

The article follows: